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# **SUBCOMMITTEE ON PUBLIC SAFETY APPROPRIATIONS**

Gus Bilirakis, Chair

## **MEETING PACKET**

March 9, 2004

5:30 p.m. – 7:30 p.m.

12 House Office Building

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

Speaker Johnnie Byrd

### Subcommittee on Public Safety Appropriations

**Start Date and Time:** Tuesday, March 09, 2004 05:30 pm  
**End Date and Time:** Tuesday, March 09, 2004 07:30 pm  
**Location:** 12 HOB  
**Duration:** 2.00 hrs

**Consideration of the following bill(s):**

HB 125 CS Accessories to a Crime by Carroll  
HB 295 Fleeing or Attempting to Elude a Law Enforcement Officer by Patterson  
HB 153 Florida Litter Law by Smith

**Comments/additional agenda:** Budget Workshop

**NOTICE FINALIZED on 03/05/2004 15:33 by AS1**



# **Florida House of Representatives**

**Tallahassee, Florida**

**32399-1300**

**Johnnie Byrd, Speaker**

**Subcommittee on Public Safety Appropriations**

**Gus Bilirakis**  
Chair

**Gus Barreiro**  
Vice Chair

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## **AGENDA**

**Tuesday, March 9, 2004**

**5:30 p.m. – 7:30 p.m.**

**12 House Office Building**

- I. Call to Order
- II. Roll Call
- III. Chairman's Opening Remarks
- IV. Consideration of the following bill (s)
  - HB 295 by Patterson and others – Fleeing Law Enforcement Officer
  - HB 125 by Carroll – Accessories to a Crime
  - HB 153 by Smith – Florida Litter Law
- V. Closing Remarks
- VI. Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 295      Fleeing or Attempting to Elude a Law Enforcement Officer  
**SPONSOR(S):** Patterson  
**TIED BILLS:**      **IDEN./SIM. BILLS:** SB 1322

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Public Safety & Crime Prevention	18 Y, 0 N	Kramer	De La Paz
2) Public Safety Appropriations Subcommittee		Davis	DeBeaugrine
3) Appropriations			
4)			
5)			

### SUMMARY ANALYSIS

HB 295 provides for enhanced penalties for offenses relating to fleeing or attempting to elude a law enforcement officer. The bill eliminates any misdemeanor designation for the offense and makes it a third degree felony for a driver, having knowledge that he or she has been ordered to stop the vehicle by a law enforcement officer, to willfully refuse or fail to stop the vehicle in compliance with the order, or having stopped the vehicle, willfully to flee in an attempt to elude the officer.

Currently, a driver cannot be charged with the felony offense of willfully fleeing or eluding a law enforcement officer in a patrol vehicle unless the vehicle has agency insignia and other jurisdictional markings prominently displayed and has its siren and lights activated. The bill would allow a driver to be charged with this offense regardless of whether the patrol vehicle had agency insignia and other jurisdictional markings if the vehicle's siren and lights were activated. The bill provides that it is an affirmative defense to a prosecution in cases where the patrol vehicle was unmarked, that the person proceeded in a safe and lawful manner to a well-lit or populated area prior to stopping his or her vehicle. However, this affirmative defense would not apply in cases in which the offender drove at a high speed in fleeing the unmarked patrol vehicle.

The bill makes it a first degree felony if during the course of fleeing or attempting to elude, the offender drives at high speed or in any manner which demonstrates a wanton disregard for the safety of persons or property and causes serious bodily injury or death to another person. The bill also requires the judge to impose a three year minimum mandatory sentence for this offense. The bill makes it a first degree felony if during the course of leaving the scene of an accident, the offender flees or attempts to elude an officer and causes serious bodily injury or death. This offense will also require the imposition of a three year minimum mandatory sentence.

Under current law, a judge is authorized to order the suspension of an offender's drivers license for up to one year for the offense of fleeing or attempting to elude an officer. The bill requires a judge to order the suspension of an offender's drivers license for not less than one year or more than five years. Further, the bill prohibits a judge from withholding adjudication of guilty for a violation of this section.

This bill appears to have an insignificant fiscal impact.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0295b.ap.doc  
**DATE:** March 2, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                                         |                             |                                         |
|--------------------------------------|-----------------------------------------|-----------------------------|-----------------------------------------|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

HB 295 amends section 316.1935, F.S., to provide for enhanced penalties for offense related to fleeing or eluding a law enforcement officer under certain circumstances. Currently, section 316.1935(1) provides that it is a first degree misdemeanor for the operator of a vehicle, having knowledge that he or she has been ordered to stop such vehicle by a duly authorized law enforcement officer, to willfully refuse or fail to stop, or having stopped in compliance with the order, willfully to flee in attempt to elude the officer. HB 295 amends this section to make the offense a third degree felony. As a result of the bill, there will no longer be a misdemeanor offense of fleeing or eluding a law enforcement officer – all of the offenses contained in the section will be a felony.

Section 316.1935(2) currently provides that it is a third degree felony to willfully flee or attempt to elude a law enforcement officer in an authorized law enforcement patrol vehicle with agency insignia and other jurisdictional markings prominently displayed on the vehicle with siren and lights activated. HB 295 amends this subsection to provide that the offense applies whether or not the law enforcement vehicle has agency insignia or other jurisdictional markings. As a result, a driver could be charged with fleeing or eluding an officer in an unmarked patrol vehicle if the vehicle had its sirens and lights activated. The bill provides that it is an affirmative defense to a prosecution under this subsection that the person, having been ordered to stop his or her vehicle by a law enforcement officer in an authorized law enforcement patrol vehicle with lights and sirens activated but without agency insignia or other jurisdictional markings, proceeded in a safe and lawful manner to a well-lit or populated area prior to stopping his or her vehicle.

Section 316.1935(3) currently provides that it is a second degree felony to willfully flee or attempt to elude a law enforcement officer in an authorized law enforcement patrol vehicle with agency insignia and other jurisdictional markings prominently displayed on the vehicle with siren and lights activated if during the course of the fleeing or attempted eluding, the offender drives at high speed or in any manner which demonstrates a wanton disregard for the safety of persons or property. HB 295 expands this provision to apply to patrol vehicles without agency insignia and other jurisdictional markings. The affirmative defense discussed above is not applicable to a prosecution under this subsection. Therefore, if a driver traveled at a high speed in fleeing or eluding an officer in an unmarked patrol vehicle, he or she could be charged with a second degree felony and could not use the defense that they were proceeding to a well-lit or populated area prior to stopping his or her vehicle. The bill also makes it a first degree felony when this offense causes serious bodily injury or death to another person, including any law enforcement officer involved in pursuing or otherwise attempting to effect a stop of the person's vehicle. The bill requires the imposition of a three year minimum mandatory sentence for the commission of this offense.

Section 316.1935(4) currently provides that it is a second degree felony for any person who, in the course of unlawfully leaving or attempting to leave the scene of a crash (in violation of s. 316.027 or s.

316.061<sup>1</sup>), having knowledge of an order to stop by a duly authorized law enforcement officer, willfully refuses or fails to stop in compliance with such an order and as a result of such fleeing or eluding, causes injury to another person or causes damage to the property of another person. HB 295 makes it a first degree felony when this offense causes serious bodily injury or death to another person, including any law enforcement officer involved in pursuing or otherwise attempting to effect a stop of the person's vehicle. The bill also requires the imposition of a three year minimum mandatory sentence for the commission of this offense.

Currently, a judge is authorized to revoke an offender's driver's license for up to one year for a violation of section 316.1935. HB 295 requires a judge to revoke an offender's license for not less than one year and not exceeding five years. The bill also provides that no court may withhold adjudication for a violation of this section.

Further, the section provides that a vehicle used in violation of this provision is deemed to be contraband which can be seized by a law enforcement agency and is subject to forfeiture pursuant to the Florida Contraband Forfeiture Act. This is similar to language in section 843.18, relating to fleeing or eluding a law enforcement officer in a boat which provides that the boat may be seized by a law enforcement officer and is subject to forfeiture.

#### C. SECTION DIRECTORY:

Section 1. Amends s. 316.1935, F.S.; relating to fleeing or attempting to elude a law enforcement officer.

Section 2. Amends s. 921.0022, F.S.; making corresponding changes to offense severity ranking chart of Criminal Punishment Code.

Section 3. Reenacts s. 318.17(1), F.S., for purpose of incorporating the amendment to section 316.1935, F.S., by reference.

Section 4. Reenacts s. 322.61, F.S., for purpose of incorporating the amendment to section 316.1935, F.S., by reference.

Section 5. Provides effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

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<sup>1</sup> Section 316.027(1)(b), F.S. provides that a driver of a vehicle involved in a crash resulting in the death of any person must immediately stop the vehicle at or near the scene of the crash, and must remain at the scene until he or she has complied with the requirements of s. 316.062, F.S. listed below. A willful violation of this provision is a second degree felony.

Section 316.061, F.S. provides that a driver of any vehicle involved in a crash resulting in damage to a vehicle or other property must immediately stop the vehicle and remain at the scene until he or she has complied with the requirements of s. 316.062, F.S. listed below. A violation of this provision is a second degree misdemeanor.

Section 316.062, F.S. requires a driver of a vehicle involved in a crash resulting in property damage or injury or death to provide certain information to the person who was injured or whose property was damaged or to law enforcement investigating the crash. The driver must provide his or her name, address, vehicle registration number and driver's license. The driver also must render reasonable assistance to the injured.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

There could be some increased revenue for local governments through the forfeiture of the vehicles involved in these crimes.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to information provided by the staff of the Office of Economic and Demographic Research, very few of the offenders sentenced in FY 2002-03 for the felony fleeing or eluding offenses had victim injury points added to their criminal code score. Therefore, it appears unlikely that a large number of offenders cause serious bodily injury or death during the course of fleeing or eluding and would therefore qualify for the new minimum mandatory sentence.

The Criminal Justice Impact Conference met on February 16, 2004, and determined this bill has an insignificant prison bed impact.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES



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A bill to be entitled

An act relating to fleeing or attempting to elude a law enforcement officer; amending s. 316.1935, F.S.; providing an additional classification for the offense of fleeing or attempting to elude a law enforcement officer; providing an additional classification for the offense of aggravated fleeing or eluding; providing and revising elements of the offenses; providing and revising criminal penalties for the offenses of fleeing or attempting to elude a law enforcement officer and aggravated fleeing or eluding with serious bodily injury or death; providing for a minimum period of incarceration in certain circumstances involving serious bodily injury or death; providing an affirmative defense to fleeing or attempting to elude a law enforcement office under certain circumstances; prohibiting courts from suspending, deferring, or withholding adjudication of guilt or imposition of sentence in certain circumstances; providing for seizure and forfeiture of certain motor vehicles as contraband in certain circumstances; amending s. 921.0022, F.S.; ranking and revising fleeing or attempting to elude a law enforcement officer offense classifications on the offense severity ranking chart of the Criminal Punishment Code; ranking the offense of aggravated fleeing or eluding with serious bodily injury or death on the offense severity ranking chart of the Criminal Punishment Code; reenacting ss. 318.17(1) and 322.61(1)(d), F.S.; incorporating the amendment to s. 316.1935, F.S., in references thereto; providing an effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 316.1935, Florida Statutes, is amended to read:

316.1935 Fleeing or attempting to elude a law enforcement officer; aggravated fleeing or ~~and~~ eluding.--

(1) It is unlawful for the operator of any vehicle, having knowledge that he or she has been ordered to stop such vehicle by a duly authorized law enforcement officer, willfully to refuse or fail to stop the vehicle in compliance with such order or, having stopped in knowing compliance with such order, willfully to flee in an attempt to elude the officer, and a person who violates this subsection commits a felony ~~misdemeanor~~ of the third ~~first~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

(2) Any person who willfully flees or attempts to elude a law enforcement officer in an authorized law enforcement patrol vehicle, with or without agency insignia and other jurisdictional markings prominently displayed on the vehicle, with siren and lights activated commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. It is an affirmative defense to a prosecution under this subsection that the person, having been ordered to stop his or her vehicle by a law enforcement officer in an authorized law enforcement patrol vehicle with lights and sirens activated, but without agency insignia or other jurisdictional markings prominently displayed on the vehicle, proceeded in a safe and

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lawful manner to a well-lit or populated area prior to stopping  
his or her vehicle.

(3) Any person who willfully flees or attempts to elude a  
law enforcement officer in an authorized law enforcement patrol  
vehicle, with or without agency insignia and other  
jurisdictional markings prominently displayed on the vehicle,  
with siren and lights activated, and during the course of the  
fleeing or attempted eluding:

(a) Drives at high speed, or in any manner which  
demonstrates a wanton disregard for the safety of persons or  
property, commits a felony of the second degree, punishable as  
provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Drives at high speed, or in any manner which  
demonstrates a wanton disregard for the safety of persons or  
property, and causes serious bodily injury or death to another  
person, including any law enforcement officer involved in  
pursuing or otherwise attempting to effect a stop of the  
person's vehicle, commits a felony of the first degree,  
punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
Notwithstanding any other provision of law, the court shall  
sentence any person convicted of committing the offense  
described in this paragraph to a mandatory minimum sentence of 3  
years imprisonment. Nothing in this paragraph shall prevent a  
court from imposing a greater sentence of incarceration as  
authorized by law.

(4) Any person who, in the course of unlawfully leaving or  
attempting to leave the scene of a crash in violation of s.  
316.027 or s. 316.061, having knowledge of an order to stop by a  
duly authorized law enforcement officer, +

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~~(a)~~ willfully refuses or fails to stop in compliance with such an order, or having stopped in knowing compliance with such order, willfully flees in an attempt to elude such officer~~;~~ and,

~~(b)~~ as a result of such fleeing or eluding;

(a) Causes injury to another person or causes damage to any property belonging to another person, commits aggravated fleeing or eluding, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Causes serious bodily injury or death to another person, including any law enforcement officer involved in pursuing or otherwise attempting to effect a stop of the person's vehicle, commits aggravated fleeing or eluding with serious bodily injury or death, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

The felony of aggravated fleeing or eluding and the felony of aggravated fleeing or eluding with serious bodily injury or death constitute ~~constitutes a~~ separate offenses ~~offense~~ for which a person may be charged, in addition to the offenses under ss. 316.027 and 316.061, relating to ~~offense of~~ unlawfully leaving the scene of a crash, which the person had been in the course of committing or attempting to commit when the order to stop was given. Notwithstanding any other provision of law, the court shall sentence any person convicted of committing aggravated fleeing or eluding with serious bodily injury or death to a mandatory minimum sentence of 3 years imprisonment. Nothing in this subsection shall prevent a court from imposing a greater sentence of incarceration as authorized by law.

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(5) The court shall ~~may~~ revoke, for a period not less than  
~~to exceed~~ 1 year nor exceeding 5 years, the driver's license of  
any operator of a motor vehicle convicted of a violation of  
subsection (1), subsection (2), subsection (3), or subsection  
(4).

(6) Notwithstanding s. 948.01, no court may suspend,  
defer, or withhold adjudication of guilt or imposition of  
sentence for any violation of this section. A person convicted  
and sentenced to a mandatory minimum term of incarceration under  
paragraph (3)(b) or paragraph (4)(b) is not eligible for  
statutory gain-time under s. 944.275 or any form of  
discretionary early release, other than pardon or executive  
clemency or conditional medical release under s. 947.149, prior  
to serving the mandatory minimum sentence.

(7) Any motor vehicle involved in a violation of this  
section is deemed to be contraband, which may be seized by a law  
enforcement agency and is subject to forfeiture pursuant to ss.  
932.701-932.704. Any vehicle not required to be titled under the  
laws of this state is presumed to be the property of the person  
in possession of the vehicle.

Section 2. Paragraphs (a), (c), (d), (e), (g), and (h) of  
subsection (3) of section 921.0022, Florida Statutes, are  
amended to read:

921.0022 Criminal Punishment Code; offense severity  
ranking chart.--

(3) OFFENSE SEVERITY RANKING CHART

Florida	Felony	
Statute	Degree	Description

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(a) LEVEL 1

142

24.118(3)(a)      3rd      Counterfeit or altered state lottery ticket.

143

212.054(2)(b)      3rd      Discretionary sales surtax; limitations, administration, and collection.

144

212.15(2)(b)      3rd      Failure to remit sales taxes, amount greater than \$300 but less than \$20,000.

145

316.1935(1)      3rd      Fleeing or attempting to elude law enforcement officer.

146

319.30(5)      3rd      Sell, exchange, give away certificate of title or identification number plate.

147

319.35(1)(a)      3rd      Tamper, adjust, change, etc., an odometer.

148

320.26(1)(a)      3rd      Counterfeit, manufacture, or sell registration license plates or validation stickers.

149

322.212(1)(a)-(c)      3rd      Possession of forged, stolen, counterfeit, or unlawfully issued driver's license; possession of simulated identification.

150

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151	322.212(4)	3rd	Supply or aid in supplying unauthorized driver's license or identification card.
152	322.212(5)(a)	3rd	False application for driver's license or identification card.
153	370.13(2)(c)1.	3rd	Molest any stone crab trap, line, or buoy which is property of licenseholder.
154	370.135(1)	3rd	Molest any blue crab trap, line, or buoy which is property of licenseholder.
155	372.663(1)	3rd	Poach any alligator or crocodilia.
156	414.39(2)	3rd	Unauthorized use, possession, forgery, or alteration of food stamps, Medicaid ID, value greater than \$200.
157	414.39(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.
158	443.071(1)	3rd	False statement or representation to obtain or increase unemployment compensation benefits.

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	509.151(1)	3rd	Defraud an innkeeper, food or lodging value greater than \$300.
159	517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
160	562.27(1)	3rd	Possess still or still apparatus.
161	713.69	3rd	Tenant removes property upon which lien has accrued, value more than \$50.
162	812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
163	812.081(2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
164	815.04(4)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
165	817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
166	817.569(2)	3rd	Use of public record or public records information to facilitate commission of a felony.
167	826.01	3rd	Bigamy.
168	828.122(3)	3rd	Fighting or baiting animals.



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169	831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
170	831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
171	832.041(1)	3rd	Stopping payment with intent to defraud \$150 or more.
172	832.05(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
173	838.15(2)	3rd	Commercial bribe receiving.
174	838.16	3rd	Commercial bribery.
175	843.18	3rd	Fleeing by boat to elude a law enforcement officer.
176	847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
177	849.01	3rd	Keeping gambling house.
178	849.09(1)(a) - (d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise

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			drawing for prizes, or dispose of property or money by means of lottery.
179	849.23	3rd	Gambling-related machines; "common offender" as to property rights.
180	849.25 (2)	3rd	Engaging in bookmaking.
181	860.08	3rd	Interfere with a railroad signal.
182	860.13 (1) (a)	3rd	Operate aircraft while under the influence.
183	893.13 (2) (a) 2.	3rd	Purchase of cannabis.
184	893.13 (6) (a)	3rd	Possession of cannabis (more than 20 grams).
185	934.03 (1) (a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.
186			(c) LEVEL 3
187	119.10 (3)	3rd	Unlawful use of confidential information from police reports.
188	316.066 (3) (d) - (f)	3rd	Unlawfully obtaining or using confidential crash reports.
189	316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
190			

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191	316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in <del>marked</del> patrol vehicle with siren and lights activated.
192	319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
193	319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
194	319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
195	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
196	327.35(2)(b)	3rd	Felony BUI.
197	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
198	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

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199	370.12(1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
200	370.12(1)(e)6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
201	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
202	400.903(3)	3rd	Operating a clinic without a license or filing false license application or other required information.
203	440.105(3)(b)	3rd	Receipt of fee or consideration without approval by judge of compensation claims.
204	440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
	501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.

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205	624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
206	624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
207	626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
208	697.08	3rd	Equity skimming.
209	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
210	796.05(1)	3rd	Live on earnings of a prostitute.
211	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
212	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
213	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
214	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
215			

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216	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
217	815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
218	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
219	817.233	3rd	Burning to defraud insurer.
220	817.234(8)(b)-(c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
221	817.234(11)(a)	3rd	Insurance fraud; property value less than \$20,000.
222	817.236	3rd	Filing a false motor vehicle insurance application.
223	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
224	817.413(2)	3rd	Sale of used goods as new.
225	817.505(4)	3rd	Patient brokering.
	828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious

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physical injury, or death.

226

831.28(2)(a)

3rd

Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.

227

831.29

2nd

Possession of instruments for counterfeiting drivers' licenses or identification cards.

228

838.021(3)(b)

3rd

Threatens unlawful harm to public servant.

229

843.19

3rd

Injure, disable, or kill police dog or horse.

230

860.15(3)

3rd

Overcharging for repairs and parts.

231

870.01(2)

3rd

Riot; inciting or encouraging.

232

893.13(1)(a)2.

3rd

Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).

233

893.13(1)(d)2.

2nd

Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or

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			(4) drugs within 1,000 feet of university.
234	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of public housing facility.
235	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
236	893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
237	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
238	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
239	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
240	893.13(8)(a)1.	3rd	Knowingly assist a patient, other



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			person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
241	893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
242	893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
243	893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
244	918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
245	944.47(1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
246	944.47(1)(c)	2nd	Possess contraband while upon the

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			grounds of a correctional institution.
247	985.3141	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
248			(d) LEVEL 4
249	316.1935(3) <u>(a)</u>	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a <del>marked</del> patrol vehicle with siren and lights activated.
250	499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
251	499.0051(2)	3rd	Failure to authenticate pedigree papers.
252	499.0051(6)	2nd	Sale or delivery, or possession with intent to sell, contraband legend drugs.
253	784.07(2) (b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
254	784.074(1) (c)	3rd	Battery of sexually violent predators facility staff.
255			

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	784.075	3rd	Battery on detention or commitment facility staff.
256	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
257	784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
258	784.081(3)	3rd	Battery on specified official or employee.
259	784.082(3)	3rd	Battery by detained person on visitor or other detainee.
260	784.083(3)	3rd	Battery on code inspector.
261	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
262	787.03(1)	3rd	Interference with custody; wrongly takes child from appointed guardian.
263	787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
264	787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or

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			delivering to designated person.
265	790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
266	790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
267	790.115(2)(c)	3rd	Possessing firearm on school property.
268	800.04(7)(d)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
269	810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
270	810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
271	810.06	3rd	Burglary; possession of tools.
272	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
273	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
274	812.014(2)(c)4.-	3rd	Grand theft, 3rd degree, a will,

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10.

firearm, motor vehicle, livestock,  
etc.

275

812.0195(2)

3rd

Dealing in stolen property by use of  
the Internet; property stolen \$300 or  
more.

276

817.563(1)

3rd

Sell or deliver substance other than  
controlled substance agreed upon,  
excluding s. 893.03(5) drugs.

277

817.568(2)(a)

3rd

Fraudulent use of personal  
identification information.

278

817.625(2)(a)

3rd

Fraudulent use of scanning device or  
reencoder.

279

828.125(1)

2nd

Kill, maim, or cause great bodily  
harm or permanent breeding disability  
to any registered horse or cattle.

280

837.02(1)

3rd

Perjury in official proceedings.

281

837.021(1)

3rd

Make contradictory statements in  
official proceedings.

282

838.022

3rd

Official misconduct.

283

839.13(2)(a)

3rd

Falsifying records of an individual  
in the care and custody of a state  
agency.

284

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	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Family Services.
285	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
286	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
287	843.15 (1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
288	874.05 (1)	3rd	Encouraging or recruiting another to join a criminal street gang.
289	893.13 (2) (a) 1.	2nd	Purchase of cocaine (or other s. 893.03 (1) (a), (b), or (d), (2) (a), (2) (b), or (2) (c) 4. drugs).
290	914.14 (2)	3rd	Witnesses accepting bribes.
291	914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
292	914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
293	918.12	3rd	Tampering with jurors.

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294	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
295			(e) LEVEL 5
296	316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
297	316.1935(4) <u>(a)</u>	2nd	Aggravated fleeing or eluding.
298	322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
299	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
300	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
301	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
302	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
303	440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing

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workers' compensation premiums.

304

624.401(4)(b)2.

2nd

Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.

305

626.902(1)(c)

2nd

Representing an unauthorized insurer; repeat offender.

306

790.01(2)

3rd

Carrying a concealed firearm.

307

790.162

2nd

Threat to throw or discharge destructive device.

308

790.163(1)

2nd

False report of deadly explosive or weapon of mass destruction.

309

790.221(1)

2nd

Possession of short-barreled shotgun or machine gun.

310

790.23

2nd

Felons in possession of firearms or electronic weapons or devices.

311

800.04(6)(c)

3rd

Lewd or lascivious conduct; offender less than 18 years.

312

800.04(7)(c)

2nd

Lewd or lascivious exhibition; offender 18 years or older.

313

806.111(1)

3rd

Possess, manufacture, or dispense fire bomb with intent to damage any



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			structure or property.
314	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
315	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
316	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
317	812.131(2)(b)	3rd	Robbery by sudden snatching.
318	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
319	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
320	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
321	817.2341(1), (2) (a)&(3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
322	817.568(2)(b)	2nd	Fraudulent use of personal

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323	817.625(2)(b)	2nd	identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.
324	825.1025(4)	3rd	Second or subsequent fraudulent use of scanning device or reencoder.
325	827.071(4)	2nd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
326	839.13(2)(b)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
327	843.01	3rd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
328	874.05(2)	2nd	Resist officer with violence to person; resist arrest with violence.
329			Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.

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330	893.13 (1) (a) 1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs).
331	893.13 (1) (c) 2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
332	893.13 (1) (d) 1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs) within 1,000 feet of university.
332	893.13 (1) (e) 2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) within 1,000 feet of property used for religious services or a specified business

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			site.
333	893.13 (1) (f) 1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), or (2) (a), (2) (b), or (2) (c) 4. drugs) within 1,000 feet of public housing facility.
334	893.13 (4) (b)	2nd	Deliver to minor cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs).
335			(g) LEVEL 7
336	316.027 (1) (b)	2nd	Accident involving death, failure to stop; leaving scene.
337	316.193 (3) (c) 2.	3rd	DUI resulting in serious bodily injury.
338	<u>316.1935 (3) (b)</u>	<u>1st</u>	<u>Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.</u>
339	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious

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			bodily injury.
340	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
341	409.920(2)	3rd	Medicaid provider fraud.
342	456.065(2)	3rd	Practicing a health care profession without a license.
343	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
344	458.327(1)	3rd	Practicing medicine without a license.
345	459.013(1)	3rd	Practicing osteopathic medicine without a license.
346	460.411(1)	3rd	Practicing chiropractic medicine without a license.
347	461.012(1)	3rd	Practicing podiatric medicine without a license.
348	462.17	3rd	Practicing naturopathy without a license.
349	463.015(1)	3rd	Practicing optometry without a

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			license.
350	464.016(1)	3rd	Practicing nursing without a license.
351	465.015(2)	3rd	Practicing pharmacy without a license.
352	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
353	467.201	3rd	Practicing midwifery without a license.
354	468.366	3rd	Delivering respiratory care services without a license.
355	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
356	483.901(9)	3rd	Practicing medical physics without a license.
357	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
358	484.053	3rd	Dispensing hearing aids without a license.
359	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there

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			were five or more victims.
360	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
361	560.125(5)(a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
362	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
363	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
364	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
365	782.071	2nd	Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
366	782.072	2nd	Killing of a human being by the

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			operation of a vessel in a reckless manner (vessel homicide).
367	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
368	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
369	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
370	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
371	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
372	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
373	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
374	784.081 (1)	1st	Aggravated battery on specified official or employee.
375	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
376	784.083 (1)	1st	Aggravated battery on code inspector.



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377	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
378	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
379	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
380	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
381	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
382	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
383	796.03	2nd	Procuring any person under 16 years for prostitution.
384	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.

385

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386	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
387	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
388	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
389	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
390	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
391	812.014(2)(a)	1st	Property stolen, valued at \$100,000 or more; cargo stolen valued at \$50,000 or more; property stolen while causing other property damage; 1st degree grand theft.
392	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
393	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of

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			property and traffics in stolen property.
394	812.131(2)(a)	2nd	Robbery by sudden snatching.
395	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
396	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
397	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
398	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
399	817.2341(2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
400	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
401	825.103(2)(b)	2nd	Exploiting an elderly person or

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			disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
402	827.03 (3) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
403	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
404	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
405	838.015	2nd	Bribery.
406	838.016	2nd	Unlawful compensation or reward for official behavior.
407	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
408	838.22	2nd	Bid tampering.
409	872.06	2nd	Abuse of a dead human body.
410	893.13 (1) (c) 1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.) within 1,000 feet of a child care facility,

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			school, or state, county, or municipal park or publicly owned recreational facility or community center.
411	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
412	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
413	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
414	893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
415	893.135(1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
416	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
417	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5

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kilograms.

418

893.135(1)(f)1.      1st

Trafficking in amphetamine, more than 14 grams, less than 28 grams.

419

893.135(1)(g)1.a.   1st

Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.

420

893.135(1)(h)1.a.   1st

Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.

421

893.135(1)(j)1.a.   1st

Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.

422

893.135(1)(k)2.a.   1st

Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.

423

896.101(5)(a)          3rd

Money laundering, financial transactions exceeding \$300 but less than \$20,000.

424

896.104(4)(a)1.      3rd

Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.

425

(h)    LEVEL 8

426

316.193(3)(c)3.a.   2nd

DUI manslaughter.

427

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	<u>316.1935(4)(b)</u>	<u>1st</u>	<u>Aggravated fleeing or attempted</u> <u>eluding with serious bodily injury or</u> <u>death.</u>
428	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
429	499.0051(7)	1st	Forgery of prescription or legend drug labels.
430	499.0052	1st	Trafficking in contraband legend drugs.
431	560.123(8)(b)2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
432	560.125(5)(b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.
433	655.50(10)(b)2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
434	777.03(2)(a)	1st	Accessory after the fact, capital felony.
435			

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	782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
436	782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
437	782.071(1)(b)	1st	Committing vehicular homicide and failing to render aid or give information.
438	782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.
439	790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
440	794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
441	800.04(4)	2nd	Lewd or lascivious battery.
442	806.01(1)	1st	Maliciously damage dwelling or



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			structure by fire or explosive, believing person in structure.
443	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
444	810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
445	810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
446	812.13(2)(b)	1st	Robbery with a weapon.
447	812.135(2)	1st	Home-invasion robbery.
448	817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
449	825.102(2)	2nd	Aggravated abuse of an elderly person or disabled adult.
450	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
451	825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
452	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital

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felony.

453

837.021(2)

2nd

Making contradictory statements in  
official proceedings relating to  
prosecution of a capital felony.

454

860.121(2)(c)

1st

Shooting at or throwing any object in  
path of railroad vehicle resulting in  
great bodily harm.

455

860.16

1st

Aircraft piracy.

456

893.13(1)(b)

1st

Sell or deliver in excess of 10 grams  
of any substance specified in s.  
893.03(1)(a) or (b).

457

893.13(2)(b)

1st

Purchase in excess of 10 grams of any  
substance specified in s.  
893.03(1)(a) or (b).

458

893.13(6)(c)

1st

Possess in excess of 10 grams of any  
substance specified in s.  
893.03(1)(a) or (b).

459

893.135(1)(a)2.

1st

Trafficking in cannabis, more than  
2,000 lbs., less than 10,000 lbs.

460

893.135(1)(b)1.b.

1st

Trafficking in cocaine, more than 200  
grams, less than 400 grams.

461

893.135(1)(c)1.b.

1st

Trafficking in illegal drugs, more  
than 14 grams, less than 28 grams.

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462	893.135(1)(d)1.b. 1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
463	893.135(1)(e)1.b. 1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
464	893.135(1)(f)1.b. 1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
465	893.135(1)(g)1.b. 1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
466	893.135(1)(h)1.b. 1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
467	893.135(1)(j)1.b. 1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
468	893.135(1)(k)2.b. 1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
469	895.03(1) 1st	Use or invest proceeds derived from pattern of racketeering activity.
470	895.03(2) 1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.

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471	895.03 (3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
472	896.101 (5) (b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.
473	896.104 (4) (a) 2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.

474

475       Section 3. For the purpose of incorporating the amendment

476 to section 316.1935, Florida Statutes, in a reference thereto,

477 subsection (1) of section 318.17, Florida Statutes, is reenacted

478 to read:

479       318.17 Offenses excepted.--No provision of this chapter is

480 available to a person who is charged with any of the following

481 offenses:

482       (1) Fleeing or attempting to elude a police officer, in

483 violation of s. 316.1935;

484       Section 4. For the purpose of incorporating the amendment

485 to section 316.1935, Florida Statutes, in a reference thereto,

486 paragraph (d) of subsection (1) of section 322.61, Florida

487 Statutes, is reenacted to read:

488       322.61 Disqualification from operating a commercial motor

489 vehicle.--

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490       (1) A person who, within a 3-year period, is convicted of  
491       two of the following serious traffic violations or any  
492       combination thereof, arising in separate incidents committed in  
493       a commercial motor vehicle shall, in addition to any other  
494       applicable penalties, be disqualified from operating a  
495       commercial motor vehicle for a period of 60 days:

496       (d) Fleeing or attempting to elude a law enforcement  
497       officer, as defined in s. 316.1935;

498       Section 5. This act shall take effect July 1, 2004, and  
499       shall apply to offenses committed on or after that date.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 125 w/CS      Accessory after the fact  
**SPONSOR(S):** Carroll  
**TIED BILLS:** None      **IDEN./SIM. BILLS:** SB 142

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Public Safety &amp; Crime Prevention</u>	<u>17 Y, 0 N</u>	<u>Cole</u>	<u>De La Paz</u>
2) <u>Public Safety Appropriations Subcommittee</u>	<u></u>	<u>Davis</u>	<u>DeBeaugrine</u>
3) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

The bill removes the prohibition that prevents family members from being charged as an accessory after the fact if they give aid to a known felony offender with the intent that the offender avoids or escapes detection, arrest, trial or punishment, if they know that the family member has committed a crime and that the crime committed is a first or second degree felony. The charge of accessory after the fact is one level less than the charge the offender has committed. The bill maintains the exemption for family members if the crime that was committed was a third degree felony.

This bill appears to have an insignificant fiscal impact.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                                         |                             |                                         |
|--------------------------------------|-----------------------------------------|-----------------------------|-----------------------------------------|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

Jason Anthony Gucwa, 29, was found murdered in March of 2003 in Flagler County. Investigators from the Flagler County Sheriff's Office, Daytona Beach Police Department, Florida Department of Law Enforcement, and State Attorney's Office are continuing to look for Stephen and Wursula Workman as persons of interest in the case. Stephen Workman's mother's home was searched twice for possible evidence linking he and his wife to the crime. Workman was last seen getting off a Greyhound bus in Minnesota. His wife is known to be back in her native Brazil. Stephen Workman's mother is believed to have materially assisted both her son and his wife flee from prosecution.

Current law prohibits family members from being charged as an accessory after the fact if they assist a family member that they know has committed a felony,<sup>1</sup> in avoiding or escaping detection, arrest, trial or punishment. This bill would remove that prohibition and allow law enforcement to prosecute family members that participate in such activity as an accessory after the fact if they know that the family member has committed a crime and that the crime committed is a first or second degree felony. The exemption for family members would remain intact if the crime involved is a third degree felony.

#### C. SECTION DIRECTORY:

**Section 1:** Names the legislation the "Jason A. Gucwa Act."

**Section 2:** Amends s. 777.03, F.S., relating to accessories after the fact.

**Section 3:** Reenacts paragraph (h) of subsection (3) of s. 921.0022, F.S., to incorporate the amendments to s. 777.03, F.S.

**Section 4:** Provides an effective date.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

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<sup>1</sup> This prohibition does not currently apply in cases involving child abuse.



2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Department of Corrections reports that as of October 2003, a review of their offender populations reflected 23 offenders admitted to supervision last year and 25 into the state prison system for the offense of Accessory After the Fact. Therefore any impact would be minimal. The Criminal Justice Impact Conference met on February 16, 2004, and determined the bill has an insignificant prison bed impact.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill is exempt from the mandates provision because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Three amendments were adopted by the Public Safety & Crime Prevention Committee that reinstated the exemption for family members when the crime is a third degree felony. When the crime involved is a first or second degree felony, the family exemption is removed.

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CHAMBER ACTION

The Committee on Public Safety & Crime Prevention recommends the following:

**Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to accessories to a crime; providing a popular name; amending s. 777.03, F.S.; limiting the provision that exempts certain members of an offender's family from being charged with the offense of acting as an accessory after the fact to circumstances involving third degree felony offenses; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Jason A. Gucwa Act."

Section 2. Subsection (1) of section 777.03, Florida Statutes, is amended to read:

777.03 Accessory after the fact.--

(1)(a) Any person not standing in the relation of husband or wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity to the offender, who

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CS

24 maintains or assists the principal or accessory before the fact,  
25 or gives the offender any other aid, knowing that the offender  
26 had committed a crime and such crime was a third degree felony,  
27 or had been an accessory thereto before the fact, with the  
28 intent that the offender avoids or escapes detection, arrest,  
29 trial, or punishment, is an accessory after the fact.

30 (b) Any person, ~~regardless of the relation to the~~  
31 ~~offender,~~ who maintains or assists the principal or accessory  
32 before the fact, or gives the offender any other aid, knowing  
33 that the offender had committed the offense of child abuse,  
34 neglect of a child, aggravated child abuse, aggravated  
35 manslaughter of a child under 18 years of age, or murder of a  
36 child under 18 years of age, or had been an accessory thereto  
37 before the fact, with the intent that the offender avoids or  
38 escapes detection, arrest, trial, or punishment, is an accessory  
39 after the fact unless the court finds that the person is a  
40 victim of domestic violence.

41 (c) Any person who maintains or assists the principal or  
42 accessory before the fact, or gives the offender any other aid,  
43 knowing that the offender had committed a crime and such crime  
44 was a first or second degree felony, or had been an accessory  
45 thereto before the fact, with the intent that the offender  
46 avoids or escapes detection, arrest, trial, or punishment, is an  
47 accessory after the fact.

48 Section 3. This act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 153

Florida Litter Law

**SPONSOR(S):** Smith

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 550

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice (Sub)	6 Y, 0 N	Whittier	De La Paz
2) Public Safety & Crime Prevention	13 Y, 0 N	Whittier	De La Paz
3) Public Safety Appropriations Subcommittee		Davis <i>[Signature]</i>	DeBeaugrine <i>[Signature]</i>
4) Appropriations			
5)			

### SUMMARY ANALYSIS

HB 153 amends the Florida Litter Law and specifies that, when a court orders a person found guilty of a first degree misdemeanor for littering<sup>1</sup> to pick up litter or perform other community service, the service must be performed in the community, area, or neighborhood where the violation occurred.

It is a third degree felony to dump litter in an amount exceeding 500 pounds in weight or 100 cubic feet in volume or in any quantity for commercial purposes, or to dump litter which is a hazardous waste. In addition, the court may order the violator to:

1. Remove or render harmless the litter that was dumped;
2. Repair or restore property damaged by, or pay damages for any damage arising out of dumping of litter; or
3. Perform public service relating to the removal of dumped litter or to the restoration of an area polluted by dumped litter.

The bill provides a fourth alternative that the court may order, which is for the violator to perform community service relating to beautification of the general area where the dumping occurred.

The bill does not appear to have a fiscal impact on state or local governments.

<sup>1</sup> Current law specifies that the littering must be in an amount exceeding 15 pounds in weight or 27 cubic feet in volume, but not exceeding 500 pounds in weight or 100 cubic feet in volume and not for commercial purposes.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |                                         |
|--------------------------------------|------------------------------|-----------------------------|-----------------------------------------|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

Section 403.413(6), F.S., establishes penalties for littering.

- The dumping of litter in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes is a noncriminal infraction. In addition, the court **may** require the violator to pick up litter or perform other labor commensurate with the offense committed.
- The dumping of litter in an amount exceeding 15 pounds in weight or 27 cubic feet in volume, but not exceeding 500 pounds in weight or 100 cubic feet in volume and not for commercial purposes is a first degree misdemeanor. In addition, the court **must** require the violator to pick up litter or perform other community service commensurate with the offense committed.

HB 153 specifies that, when a court orders a person found guilty of a first degree misdemeanor for littering to pick up litter or perform other community service, the service **must** be performed in the community, area, or neighborhood where the violation occurred.

- The dumping of litter in an amount exceeding 500 pounds in weight or 100 cubic feet in volume or in any quantity for commercial purposes, or which is hazardous waste, is a third-degree felony. In addition, the court **may** order the violator to:
  - Remove or render harmless the litter that was dumped;
  - Repair or restore property damaged by, or pay damages for any damage arising out of dumping of litter; or
  - Perform public service relating to the removal of dumped litter or to the restoration of an area polluted by dumped litter.

The bill provides a fourth alternative that the court may order, which is for the violator to perform community service relating to beautification of the general area where the dumping occurred.

#### C. SECTION DIRECTORY:

Section 1: Amends s. 403.413, F.S., relating to littering violations.

Section 2: Provides an effective date of "upon becoming a law."

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The offender may have to pay for travel to return to the area where the litter was dumped.

### **D. FISCAL COMMENTS:**

The Criminal Justice Impact Conference is not scheduled to review this bill as it will not have a prison bed impact. This bill does not appear to have a fiscal impact on state government.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

N/A

#### **2. Other:**

None.

### **B. RULE-MAKING AUTHORITY:**

None.

### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

## **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

None.

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A bill to be entitled

An act relating to the Florida Litter Law; amending s. 403.413, F.S.; revising language that prohibits the dumping of litter in or on private property under certain circumstances; requiring that the community service imposed for certain violations be performed in specified areas; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (c) of subsection (4) and subsection (6) of section 403.413, Florida Statutes, are amended to read:

403.413 Florida Litter Law.--

(4) DUMPING LITTER PROHIBITED.--Unless otherwise authorized by law or permit, it is unlawful for any person to dump litter in any manner or amount:

(c) In or on any private property, unless prior consent of the owner has been given and unless the dumping of such litter will not cause a public nuisance or otherwise be in violation of any other state or local law, rule, or regulation.

(6) PENALTIES; ENFORCEMENT.--

(a) Any person who dumps litter in violation of subsection (4) in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes is guilty of a noncriminal infraction, punishable by a civil penalty of \$50. In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed.

(b) Any person who dumps litter in violation of subsection (4) in an amount exceeding 15 pounds in weight or 27 cubic feet in volume, but not exceeding 500 pounds in weight or 100 cubic



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feet in volume and not for commercial purposes is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the court shall require the violator to pick up litter or perform other community service in the community, area, or neighborhood where the violation occurred commensurate with the offense committed. Further, if the violation involves the use of a motor vehicle, upon a finding of guilt, whether or not adjudication is withheld or whether imposition of sentence is withheld, deferred, or suspended, the court shall forward a record of the finding to the Department of Highway Safety and Motor Vehicles, which shall record a penalty of three points on the violator's driver's license pursuant to the point system established by s. 322.27.

(c) Any person who dumps litter in violation of subsection (4) in an amount exceeding 500 pounds in weight or 100 cubic feet in volume or in any quantity for commercial purposes, or dumps litter which is a hazardous waste as defined in s. 403.703, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the court may order the violator to:

1. Remove or render harmless the litter that he or she dumped in violation of this section;

2. Repair or restore property damaged by, or pay damages for any damage arising out of, his or her dumping litter in violation of this section; ~~or~~

3. Perform public service relating to the removal of litter dumped in violation of this section or to the restoration of an area polluted by litter dumped in violation of this section; or

4. Perform community service relating to beautification of

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the general area where the dumping occurred.

(d) A court may enjoin a violation of this section.

(e) A motor vehicle, vessel, aircraft, container, crane, winch, or machine used to dump litter that exceeds 500 pounds in weight or 100 cubic feet in volume is declared contraband and is subject to forfeiture in the same manner as provided in ss. 932.703 and 932.704.

(f) If a person sustains damages arising out of a violation of this section that is punishable as a felony, a court, in a civil action for such damages, shall order the person to pay the injured party threefold the actual damages or \$200, whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees. A final judgment rendered in a criminal proceeding against a defendant under this section estops the defendant from asserting any issue in a subsequent civil action under this paragraph which he or she would be estopped from asserting if such judgment were rendered in the civil action unless the criminal judgment was based upon a plea of no contest or nolo contendere.

(g) For the purposes of this section, if a person dumps litter or raw human waste from a commercial vehicle, that person is presumed to have dumped the litter or raw human waste for commercial purposes.

(h) In the criminal trial of a person charged with violating this section, the state does not have the burden of proving that the person did not have the right or authority to dump the litter or raw human waste or that litter or raw human waste dumped on private property causes a public nuisance. The defendant has the burden of proving that he or she had authority

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to dump the litter or raw human waste and that the litter or raw human waste dumped does not cause a public nuisance.

(i) It shall be the duty of all law enforcement officers to enforce the provisions of this section.

(j) Any person who violates the provisions of subsection(5) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; provided, however, that any person who dumps more than 500 pounds or more than 100 cubic feet of raw human waste, or who dumps any quantity of such waste for commercial purposes, is guilty of a felony of the third degree, punishable as provided in paragraph (c).

Section 2. This act shall take effect upon becoming a law.